

Timothy E. Foley, Esquire  
ATTORNEY I.D. #19105  
FOLEY, COGNETTI, COMERFORD & CIMINI  
700 Electric Building  
507 Linden Street  
Scranton, PA 18503-1666  
570-346-0745

Attorney for Defendant,  
Townsend Engineering Company

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IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

JUAN PEREZ and  
MINERVA PEREZ, (h/w)

Plaintiffs

vs.

TOWNSEND ENGINEERING  
COMPANY

Defendant

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3:05-CV-

JURY TRIAL DEMANDED

**NOTICE OF REMOVAL OF ACTION**

Defendant, Townsend Engineering Company, through its attorneys, FOLEY, COGNETTI, COMERFORD, CIMINI & CUMMINS, gives notice of the removal to this Court of a state civil action pending in the Court of Common Pleas of Lackawanna County, Pennsylvania, and in support thereof avers as follows:

1. The initial pleading in the action, a Praecipe to Issue Writ of Summons was brought against Defendant by Plaintiffs and is pending in the Court of Common Pleas of Lackawanna County under docket number 4055 of 2005. See Exhibit "A" attached.
2. The state court where this action was originally filed is located in Scranton, Lackawanna County, Pennsylvania, which is located within this judicial district.

3. At the time of the filing of this action in state court, Plaintiffs were permanent resident aliens of the Commonwealth of Pennsylvania residing in West Hazleton, Luzerne County, Pennsylvania.

4. Defendant, at the time of the filing of this action in state court, was and is a corporation incorporated under the laws of the State of Iowa and has its principal place of business in Des Moines, Iowa.

5. This action is for a matter in controversy in excess of the sum or value of \$75,000.00 exclusive of interest and costs, as is set forth in the Praeceptum to Issue Writ of Summons, and is between citizens of different states.

6. Plaintiffs allege damages in excess of \$100,000.00 exclusive of interest and costs for each claim, as set forth in the Praeceptum to Issue Writ of Summons.

7. This Court has original diversity of citizenship jurisdiction of the subject matter of this action under 28 U.S.C. §1332.

8. The Praeceptum to Issue Writ of Summons and the Writ of Summons, was served on Defendant by certified mail on October 17, 2005, and the instant Notice of Removal is filed within thirty days thereof as required by 28 U.S.C. §1446(b). No other process, pleadings or orders have been served upon Defendant.

9. The statutory requirements having been met, this action is properly removed to this Court.

Respectfully submitted,

**FOLEY, COGNETTI, COMERFORD  
CIMINI & CUMMINS**

BY: s/Timothy E. Foley, Esquire  
Attorneys for Defendant,  
Townsend Engineering Company

**THIS IS NOT AN ARBITRATION CASE  
ASSESSMENT OF DAMAGES HEARING IS REQUIRED  
DAMAGES IN EXCESS OF \$100,000 EXCLUSIVE OF  
INTEREST & COSTS FOR EACH CLAIM  
JURY TRIAL IS DEMANDED**

**GALFAND BERGER, LLP**  
BY: PETER M. PATTON, ESQUIRE  
Identification No. 48847  
Suite 2300, 1818 Market Street  
Philadelphia, PA 19103  
(215) 665-1600

Attorneys for Plaintiffs

JUAN PEREZ and MINERVA PEREZ, h/w  
Permanent Resident Aliens residing at  
311 Allen Street  
West Hazelton, Pennsylvania 18202

Plaintiffs

vs.

TOWNSEND ENGINEERING COMPANY  
A Iowa Corporation  
2425 Hubbell Avenue  
Des Moines, Iowa 50317  
Principal Place of Business

Defendant

COUNTY OF LACKAWANNA

COURT OF COMMON PLEAS

TERM, 2005

05104055 No.  
JURY TRIAL DEMANDED

**PRAECIPE TO ISSUE WRIT OF SUMMONS**

TO THE PROTHONOTARY:

Kindly issue WRIT OF SUMMONS IN CIVIL ACTION to TOWNSEND ENGINEERING COMPANY, in the above-captioned matter.

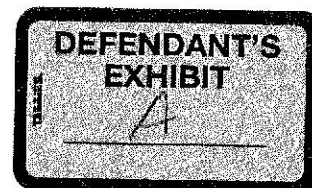
**GALFAND, BERGER, LLP**

By: 

**PETER M. PATTON, ESQUIRE**  
Attorney for Plaintiffs

DATED: 10-4-05

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THIS IS NOT AN ARBITRATION CASE. ASSESSMENT OF DAMAGES HEARING IS REQUIRED. DAMAGES IN EXCESS OF \$100,000 EXCLUSIVE OF INTEREST & COSTS FOR EACH CLAIM. JURY TRIAL IS DEMANDED

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY, PENNSYLVANIA

JUAN PEREZ and MINERVA PEREZ, h/w

Permanent Resident Aliens

311 Allen Street

West Hazelton, PA 18202

VS.

TOWNSEND ENGINEERING COMPANY

A Iowa Corporation

2425 Hubbell Avenue

Des Moines, Iowa 50317

Principal Place of Business

NO. 05cv

Civil Action

2005 OCT -7 P 12:3  
RECORDS CIVIL DIVISION  
LACKAWANNA COUNTY  
MARY F. RINALDI

JURY TRIAL DEMANDED

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY:

Issue Summons in Civil Action in the above case

Writ of Summons shall be forwarded to ☒ Attorney ☐ Sheriff

*P. M. Patton*

Signature of Attorney

Peter M. Patton, Esquire  
Galfand, Berger LLP

1818 Market Street, 23 Floor

Philadelphia, PA 19103

215 665 1600

Name/ Address/Telephone Number of Attorney

Date: 10-4-05

I.D. Number: 48847

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SUMMONS IN CIVIL ACTION

You are notified that the Plaintiff(s) have commenced an action against you.

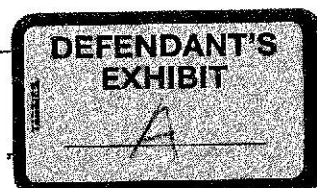
SEAL OF  
THE  
COURT

*Mary F. Rinaldi*

MARY F. RINALDI, Clerk of Judicial Records

*Thomas A. Parry*

Date: OCT -7 2005



Thomas A. Parry, Administrator

JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

JUAN PEREZ &amp; MINERVA PEREZ, HIS WIFE

(b) County of Residence of First Listed Plaintiff LUZERNE  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

PETER M. PATTON, ESQUIRE  
GALFAND BERGER, LLP  
1818 MARKET ST., SUITE 2300  
PHILADELPHIA, PA 19103

## DEFENDANTS

TOWNSEND ENGINEERING COMPANY

County of Residence of First Listed  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

TIMOTHY E. FOLEY, ESQUIRE  
FOLEY, COGNETTI, COMERFORD, CIMINI  
507 LINDEN ST., 700 SCR. ELEC BLDG.  
SCRANTON, PA 18503

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties  
in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ DEF 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ DEF 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Rel. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DEWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

## PRAECIPE FOR WRIT OF SUMMONS AND WRIT OF SUMMONS

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_

s/ Timothy E. Foley, Esquire  
Attorneys for Defendant,  
Townsend Engineering Company